

UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

JOHN CHARLES KENNEY,  
Defendant

:  
:  
: CRIMINAL NO. 1:92-CR-22  
:  
:  
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*O R D E R*

AND NOW, this 22nd day of August, 2017, upon consideration of Defendant's motion (Doc. 58) to vacate, set aside, or correct sentence under 28 U.S.C. § 2255, and in accord with the accompanying memorandum, it is ORDERED that:

1. Defendant's motion is DISMISSED without prejudice as time-barred.
2. A certificate of appealability will issue based on the analysis in the accompanying memorandum on the issue of whether a new right exists to challenge the mandatory Guidelines under the Due Process Clause in light of Johnson v. United States, 135 S. Ct. 2551 (2015), and Beckles v. United States, 137 S. Ct. 886 (Mar. 7, 2017).
3. The Clerk of Court shall close the file.

/s/ William W. Caldwell  
William W. Caldwell  
United States District Judge